

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

1) PINNACLE PACKAGING COMPANY,)
INC., an Oklahoma corporation,)
2) POLO ROAD LEASING, LLC, an Okla-)
homa limited liability company, and)
3) J. SCOTT DICKMAN,)

Plaintiffs,)

v.)

Case No. 12-CV-537-JED-TLW

4) ONE EQUITY PARTNERS LLC, a)
Delaware limited liability company, and)
5) CONSTANTIA FLEXIBLES GmbH, an)
Austrian corporation,)

Defendants.)

**UNOPPOSED MOTION OF PLAINTIFFS TO ENLARGE
TIME FOR FILING OF SURREPLY BRIEF**

Plaintiffs, Pinnacle Packaging Company, Inc., Polo Road Leasing, LLC, and J. Scott Dickman, hereby move the Court to enlarge the time for filing of their Surreply brief from Friday, November 22, 2013¹ to Tuesday, November 26, 2013. In support of this Motion, the Plaintiffs show the Court:

1. Defendants do not oppose this extension, but Defendants continue their objection to

¹ This date may be November 25, 2013. Rule 6(d) provides that when a party must act within a specified time after service, and “service is made under Rule 5(b)(2)(C), (D), (E), or (F), three days are added after the period, setting the surreply time that would otherwise expire under Rule 6(a). The Court’s Minute Order [DKT 67] served electronically stated “Plaintiffs shall file their brief within 11 days of this Order.” Arguably, three days may be added. *See, Vestavia Plaza LLC v. City of Vestavia Hills, Ala.*, 2012 WL 2036044, but in *Williams v. State Farm Ins. Co.*, 2012 WL 1079822 (E.D.Mich. 2012), the court stated that Rule 6(d) did not apply to the filing of the subject motion because the applicable rule stated the motion must be filed within 14 days of entry, rather than service. There is some ambiguity as to whether the Minute Order meant service or entry. *See also, Proa v NRT Mid-Atlantic, Inc.*, 633 F.Supp.2d 209, 211-212 (D.Md. 2009); and *BSN Medical, Inc. v. Parker Medical Associates LLC*, 2011 WL 1343188 at *2 (W.D.N.C. 2011).

the Surreply.

2. Plaintiffs are unable to comply with the filing date, because their counsel, Laurence L. Pinkerton, who is solely preparing the Surreply, was charged, subsequent to this Court's order granting the right to file the Surreply [DKT 67], to research and prepare on behalf of certain defendants in the United States District Court for the Northern District of Texas, Dallas Division, an answer, counterclaim, and two separate third-party complaints that had to be filed on November 19, 2013. The filing consisted of 24 pages, and it and other business interfered with Pinkerton's ability to timely make the Surreply filing. In addition, Pinkerton's secretary has weekend conflicts that affect the ability to finalize this Surreply over the weekend.

3. No previous enlargements have been sought on this filing.

4. Granting this Motion will not affect any scheduled date or the proper and efficient administration of this case, as the Court has set an oral argument for January 3, 2014, thus, this short extension would not be prejudicial to the Defendants or the Court by way of preparation. Moreover, the Defendants have requested that they be allowed to contact the Court to move the hearing date from January 3, 2014, and Plaintiffs have not opposed such movement if it can be effected within the month of January, 2014. This will allow additional time to react to any arguments made in the Surreply.

WHEREFORE, Plaintiffs respectfully request that their Motion be granted, and that they given other just and appropriate relief.

s/Laurence L. Pinkerton

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ATTORNEY FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2013, I electronically transmitted the foregoing pleading, to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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